



**6450-01-P**

**DEPARTMENT OF ENERGY**

**10 CFR Part 431**

**[EERE-2015-BT-STD-0008]**

**RIN 1904-AD52**

**Energy Conservation Program: Energy Conservation Standards for Dedicated-Purpose Pool Pumps**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Confirmation of effective date and compliance date for direct final rule.

**SUMMARY:** On January 18, 2017, the U.S. Department of Energy (“DOE”) published in the *Federal Register* a direct final rule to establish new energy conservation standards for dedicated purpose pool pumps. DOE has determined that the comments received in response to that direct final rule do not provide a reasonable basis for withdrawing it. Therefore, DOE is providing notice confirming the adoption of the energy conservation standards established in that direct final rule and announces the effective date of those standards.

**DATES:** The direct final rule for dedicated-purpose pool pumps published on January 18, 2017 (82 FR 5650) became effective on May 18, 2017. Compliance with the dedicated-purpose pool pumps standards in the direct final rule will be required on July 19, 2021.

**ADDRESSES:** The docket for this rulemaking, which includes *Federal Register* notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at <https://www.regulations.gov/docket?D=EERE-2015-BT-STD-0008>. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact the Appliance and Equipment Standards Program staff at (202) 586-6636 or by email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:**

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## **SUPPLEMENTARY INFORMATION:**

### **I. Authority**

As amended by the Energy Efficiency Improvement Act of 2015, Public Law 114-111 (April 30, 2105), the Energy Policy and Conservation Act (“EPCA” or, in context, “the Act”), Public Law 94-163 (42 U.S.C. 6291–6309, as codified), authorizes DOE to issue a direct final rule establishing an energy conservation standard for a product on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by the Secretary of Energy (“Secretary”). That statement must contain recommendations with respect to an energy or water conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o) or 42 U.S.C. 6316, as applicable. A notice of proposed rulemaking (“NOPR”) that proposes an identical energy efficiency standard must be published simultaneously with the direct final rule and a public comment period of at least 110 days provided. 42 U.S.C. 6295(p)(4). Not later than 120 days after issuance of the direct final rule, if DOE receives one or more adverse comments or an alternative joint recommendation is received relating to the direct final rule, the Secretary must determine whether the comments or alternative recommendation may provide a reasonable basis for withdrawal under 42 U.S.C. 6295(o) or other applicable law.

When making a determination whether to withdraw a direct final rule, DOE considers the substance, rather than the quantity, of comments. To this end, DOE weighs the substance of any adverse comment(s) received against the anticipated benefits of the consensus recommendations and the likelihood that further consideration of the comment(s) would change the results of the rulemaking. DOE notes that to the extent an adverse comment had been previously raised and addressed in the rulemaking proceeding, such a submission will not typically provide a basis for withdrawal of a direct final rule. If the Secretary makes such a determination, DOE must withdraw the direct final rule and proceed with the simultaneously published NOPR. DOE must publish in the *Federal Register* the reasons why the direct final rule was withdrawn.

DOE determined that it did not receive any adverse comments providing a basis for withdrawal as described above for the direct final rule that is the subject of this document – dedicated purpose pool pumps (“DPPPs”). As such, DOE did not withdraw this direct final rule and allowed it to become effective. Although not required under EPCA, DOE customarily publishes a summary of the comments received during the 110-day comment period and its responses to those comments.<sup>1</sup> This document contains such a summary, as well as DOE’s responses, for DPPPs.

## **II. Dedicated-Purpose Pool Pumps Direct Final Rule**

### **A. Background**

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<sup>1</sup> See, e.g., Notice of effective date and compliance dates for direct final rule, 76 FR 67037 (Oct. 31, 2011).

Prior to May 18, 2017, no Federal energy conservation standards existed for DPPP. DOE excluded this category of pumps from its recent consensus-based energy conservation standard final rule for general pumps. 81 FR 4368 (January 26, 2016).

On July 29, 2016, DOE received a statement submitted by ASRAC that a consensus had been reached by a negotiated rulemaking working group for DPPPs (the “the DPPP Working Group” or, in context, the “Working Group”). The DPPP Working Group consisted of 13 members, including one member from ASRAC and one DOE representative, with the balance comprising representatives of manufacturers of the DPPPs, efficiency advocates, and a State representative. The DPPP Working Group submitted to ASRAC a Term Sheet, that, in the view of the Working Group, would satisfy the EPCA requirements at 42 U.S.C. 6295(o), and ASRAC voted unanimously to adopt these consensus recommendations. (DPPP Term Sheet, Docket No. EERE-2015-BT-STD-0008, No. 82)

After careful consideration of the DPPP Term Sheet related to amended energy conservation standards for DPPPs, the Secretary has determined that the recommendations contained therein are compliant with 42 U.S.C. 6295(o), and were submitted by interested persons who are fairly representative of relevant points of view on this matter, as required by 42 U.S.C. 6295(p)(4)(A)(i) for the issuance of a direct final rule.

DOE found that the standard levels recommended in the DPPP Term Sheet would result in significant energy savings and are technologically feasible and economically justified. Thus, energy conservation standards, definitions, and prescriptive requirements established in the

DPPP direct final rule and articulated below in this notice directly reflect the June 2016 DPPP Working Group recommendations.

Tables II-1 and I-2 document the new standards for DPPPs established as a result of the direct final rule and the June 2016 DPPP Working Group recommendations. Standards for equipment classes in Table II-1 are performance-based, expressed in terms of weighted energy factor (“WEF”); standards in Table II-2 are prescriptive. These standards apply to all equipment listed in Tables II-1 and II-2 and manufactured in or imported into the United States starting on July 19, 2021.

*Table II.1 Performance-Based Energy Conservation Standards for Dedicated-Purpose Pool Pumps*

<b>Equipment Class</b>			<b>Minimum Allowable WEF** Score</b>
<b>Dedicated-Purpose Pool Pump Variety</b>	<b>Hydraulic Horsepower Applicability*</b>	<b>Motor Phase</b>	
Standard-Size Self-Priming Pool Filter Pumps	$0.711 \text{ hp} \leq \text{hhp} < 2.5 \text{ hp}$	Single	$\text{WEF} = -2.30 * \ln(\text{hhp}) + 6.59$
Small-Size Self-Priming Pool Filter Pumps	$\text{hhp} < 0.711 \text{ hp}$	Single	$\text{WEF} = 5.55 \text{ for } \text{hhp} \leq 0.13 \text{ hp},$ $-1.30 * \ln(\text{hhp}) + 2.90 \text{ for } \text{hhp} > 0.13 \text{ hp}$
Non-Self-Priming Pool Filter Pumps	$\text{hhp} < 2.5 \text{ hp}$	Any	$\text{WEF} = 4.60 \text{ for } \text{hhp} \leq 0.13 \text{ hp},$ $-0.85 * \ln(\text{hhp}) + 2.87 \text{ for } \text{hhp} > 0.13 \text{ hp}$
Pressure Cleaner Booster Pumps	Any	Any	$\text{WEF} = 0.42$

\*All instances of hhp refer to rated hydraulic horsepower determined in accordance with the DOE test procedure at 10 CFR 431.464 and applicable sampling plans.

\*\* WEF is measured by kgal/kWh.

*Table II.2 Prescriptive Energy Conservation Standards for Dedicated-Purpose Pool Pumps*

<b>Equipment Class</b>			<b>Prescriptive Standard</b>
<b>Dedicated-Purpose Pool Pump</b>	<b>Hydraulic Horsepower Applicability</b>	<b>Motor Phase</b>	

Variety			
Integral Sand Filter Pool Pump	Any	Any	Must be distributed in commerce with a pool pump timer that is either integral to the pump or a separate component that is shipped with the pump.
Integral Cartridge Filter Pool Pump	Any	Any	Must be distributed in commerce with a pool pump timer that is either integral to the pump or a separate component that is shipped with the pump.
All Dedicated-Purpose Pool Pumps Distributed in Commerce with Freeze Protection Controls	Any	Any	<p>The pump must be shipped with freeze protection disabled or with the following default, user-adjustable settings:</p> <ul style="list-style-type: none"> <li>• The default dry-bulb air temperature setting is no greater than 40 °F;</li> <li>• The default run time setting shall be no greater than 1 hour (before the temperature is rechecked); and</li> <li>• The default motor speed shall not be more than ½ of the maximum available speed.</li> </ul>

## B. Comments on the DPPP Direct Final Rule

Of the 11 substantive comments received in response to the direct final rule, 9 were from parties that expressed support for the direct final rule and its outcome. (All comments are available for public viewing at <https://www.regulations.gov/docket?D=EERE-2014-BT-STD-0048>.) Among these commenters, five manufacturers and one trade group all commented positively on finalizing the rule based on manufacturing certainty. In addition, they highlighted the significant economic benefits to consumers and ratepayers that the direct final rule would provide.

Other parties submitted comments that either expressed tentative support or no support for the DPPP direct final rule. The following sections discuss these specific comments and

DOE's determination that the comments do not provide a reasonable basis for withdrawal of the direct final rule.

### 1. Replacement Motors

Four parties commented that they hesitated to support or stated they did not support the direct final rule, despite their participation in the DPPP Working Group and unanimous consensus to the DPPP Term Sheet, because the direct final rule did not address replacement motors. Two parties further encouraged DOE to initiate a working group to address specifically replacement pool motors.

In response, DOE notes that its direct final rule and Working Group only supported the development of energy conservation standards for DPPPs. DPPP replacement motors are not the subject of in this direct final rule. DOE appreciates that stakeholders have expressed support for adoption of the direct final rule as currently drafted, and notes that affected stakeholders have four-and-a-half years to take steps toward compliance with the DPPP standards, including forming a replacement pool pump motors working group. Thus, DOE plans to hold a public meeting in the near future with the interested parties to gather data and information to could lead to the consideration of energy conservation standards for replacement pool pump motors.

### 2. Cost/Benefit Analysis

DOE received one substantive comment that alleged that the costs (regulatory and consumer) published in the DPPP direct final rule were too high. In particular, the commenter



noted that the installation cost of a typical self-priming pool pump would increase by 77 percent, and that other pump categories will see price increases of anywhere between \$9 and \$66.

In response, DOE notes that all of these issues were discussed in detail during the Working Group negotiations. DOE's analysis accounted for the lower energy costs that the consumers would receive, which would add up to a lifetime cost saving of over \$2,000 and an eight-month payback period. DOE also received a comment from a manufacturer that stated that 50 percent of the self-priming pool pumps on the market are already compliant, which suggests that the direct final rule's standards are technologically feasible and economically justified.

DOE notes that EPCA does not require it to choose the standard level with the least consumer cost, or the least cost to manufacturers, but only to assess those, among other, costs and benefits (using the 7 factors articulated at 42 U.S.C. 6295(o)) and determine whether the burdens outweigh the benefits. In this case, the recommended TSL met that standard, and DOE's analysis and conclusions would not change based on the comments received. Thus, DOE does not consider these comments to provide a basis to justify a withdrawal of this direct final rule under EPCA.

### 3. Independent Control as Interested Parties

DOE received a comment from an independent control manufacturer who commented that the views of independent control manufacturers were not represented in the Working Group, and thus the Working Group Term Sheet did not represent a consensus agreement. The Working

Group meetings were conducted transparently, and the commenter's concerns were raised by multiple Working Group members, discussed at length, and resolved.

### **III. Department of Justice Analysis of Competitive Impacts**

EPCA directs DOE to consider any lessening of competition that is likely to result from new or amended standards. It also directs the Attorney General of the United States ("Attorney General") to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) For the direct final rule discussed in this document, DOE published a NOPR containing energy conservation standards identical to those set forth the direct final rule and transmitted a copy of the direct final rule and the accompanying technical support document ("TSD") to the Attorney General, requesting that the U.S. Department of Justice ("DOJ") provide its determination on this issue. DOE has published DOJ's comments at the end of this document.

DOJ reviewed the new standards in the direct final rule and the direct final rule TSD discussed in this document. As a result of its analysis, DOJ concluded that the new standards issued in the direct final rule are unlikely to have a significant adverse impact on competition. DOJ further noted that the standards established in the direct final rule were the same as recommended standards submitted in the consensus recommendations signed by industry participants who believed they could meet the standards (as well as other interested parties).

#### **IV. Social Cost of Carbon**

DOE notes that the direct final rule discussed in this document preceded Executive Order 13783's requirement to revise future analyses involving carbon monetization. See 82 FR 16093 (March 31, 2017). The direct final rule included an analysis that examined the impacts associated with the social cost of carbon. These values, which were ancillary to the primary analyses that DOE conducted to determine whether the standards adopted in the rule were justified under the statutory criteria prescribed under 42 U.S.C. 6295(o), did not change the results of DOE's analyses. Accordingly, while the inclusion of these values helped in providing additional detail regarding the impacts from the rule, those details played no role in determining the outcome of DOE's decision under EPCA.

#### **V. National Environmental Policy Act**

Pursuant to the National Environmental Policy Act of 1969 ("NEPA"), DOE has determined that this direct final rule fits within the category of actions included in Categorical Exclusion ("CX") B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). This rule fits within the category of actions because they are rulemakings establishing energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for it. DOE's CX determination applying to this direct final rule is available at <http://energy.gov/nepa/categorical-exclusion-cx-determinations-cx>.

## **VI. Conclusion**

In summary, based on the discussion above, DOE has determined that the comments received in response to the direct final rule establishing new energy conservation standards for DPPP's do not provide a reasonable basis for its withdrawal. As a result, the energy conservation standards set forth in that direct final rule became effective on May 18, 2017. Compliance with the standards articulated in that direct final rule is required on July 19, 2021.

Issued in Washington, DC, on May 22, 2017.

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Daniel R Simmons  
Acting Assistant Secretary  
Energy Efficiency and Renewable Energy

## Appendix

[The following letter will not appear in the Code of Federal Regulations]

U.S. DEPARTMENT OF JUSTICE  
Antitrust Division

ANDREW C. FINCH  
Acting Assistant Attorney General  
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April 21, 2017

Daniel Cohen  
Assistant General Counsel  
U.S. Department of Energy  
Washington, D.C. 20585

Dear Assistant General Counsel Cohen:

I am responding to your February 21, 2017, letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for dedicated-purpose pool pumps (EERE-2015-BT-STD-0008). Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (EPCA), 42 U.S.C. § 6295(o)(2)(B)(i)(V) and 43 U.S.C. § 6316(a), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis, the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice or increasing industry concentration. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Direct Final Rule (82 Fed. Reg. 5650, Jan. 18, 2017). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy and spoken with industry representatives. Based on this

review, our conclusion is that the proposed energy conservation standards for dedicated-purpose pool pumps are unlikely to have a significant adverse impact on competition.

Sincerely,

Andrew C. Finch

[FR Doc. 2017-10868 Filed: 5/25/2017 8:45 am; Publication Date: 5/26/2017]